



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,016	12/13/2001	Timothy Frederick Thomas	LL-111-R &D	2794
7590 07/13/2004 BRINKS HOFER GILSON & lionc P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER PICKETT, JOHN G	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,016

Applicant(s)

THOMAS ET AL.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22, 23, 25-35, 37 and 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22, 23, 25-35, 37 and 38 is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 10-16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2, 8, 9, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 30 March 2004 has been entered. Claims 1-20, 22, 23, 25-35, 37, and 38 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1, 3-7, 10, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvers (US 6,540,084) in view of Caveness (US 2003/0029740) and Lanham (US 4,981,229).

Regarding claim 1, Silvers discloses a package for articles comprising a container **10** having a container body **20** with a first side body panel **26**, a second side body panel **31**, and a separation member **36** which divide the container body into a first compartment **38** and second compartment **40**, each compartment having an opening.

Art Unit: 3728

Silvers also discloses a first lid **22** and second lid **24**, each hingedly attached to the side body panels in a substantially diametrically opposed manner.

Silvers lacks or does not expressly disclose first and second sealing layers removably affixed to the edges of the compartments to maintain the internal space at a pressure less than atmospheric (hereinafter referred to as vacuum sealed).

Caveness discloses vacuum sealing packaged towels for compact storage (see paragraph [0009]). Lanham discloses a removable seal **3** for vacuum sealing a compartment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the articles of Silvers in a compact state as suggested by Caveness by using a vacuum seal as taught by Lanham in order to provide a more compact container to the consumer.

As to claim 3, the package of Silvers-Caveness-Lanham discloses a low permeability sheet material adhesively affixed to the edges of the compartment (Lanham Col. 2, lines 34-40, and Col. 3, lines 16-17).

As to claim 4, the package of Silvers-Caveness-Lanham discloses sealing layers made of metal foil/polymeric film laminates (Lanham Col. 2, lines 34-40).

As to claim 5, the package of Silvers-Caveness-Lanham discloses a separation member (Silvers **97**) dividing the internal space into three compartments.

As to claim 6, the package of Silvers-Caveness-Lanham discloses a rectangular shape with front and back panels (Silvers Figure 1).

As to claim 7, the package of Silvers-Caveness-Lanham discloses integral molding of a polymeric material (Silvers Col. 3, lines 14-19).

As to claims 10 and 12, the package of Silvers-Caveness-Lanham discloses first and second hinges (Silvers **42 & 70**).

As to claim 13, the package of Silvers-Caveness-Lanham discloses first peripheral flange (Silvers **58**), first peripheral shoulder (Silvers **60**), second peripheral flange (Silvers **88**), and second peripheral shoulder (Silvers **86**),

As to claims 14 and 15, Silvers-Caveness-Lanham discloses the claimed invention except for the claimed material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to the package of Silvers-Caveness-Lanham in the claimed material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

As to claims 19 and 20, the package of Silvers-Caveness-Lanham discloses an integral tab (Lanham 4).

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silvers-Caveness-Lanham as applied to claim 10 above, and further in view of Keaveney et al (US 5,938,018).

Silvers-Caveness-Lanham discloses the claimed invention except for the flexible sheet hinge. Keaveney et al discloses a container **10** with a flexible sheet hinge **18**. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Silvers-Caveness-Lanham with a hinge of flexible material as taught by Keaveney et al in order to allow for the removal of the lid. It has

Art Unit: 3728

been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPO 177, 179.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silvers-Caveness-Lanham as applied to claim 13 above, and further in view of Funderburk et al (US 6,726,006).

Silvers-Caveness-Lanham discloses the claimed invention except that Silvers-Caveness-Lanham uses a latch configuration instead of retaining nubs and a finger cutout for the opening of the compartments. Funderburk et al shows that a retaining nub and a finger cutout was an equivalent structure known in the art. Therefore, because these two closure means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the retaining nubs and finger cutout of Funderburk et al for the latch configuration of Silvers-Caveness-Lanham.

Allowable Subject Matter

6. Claims 22, 23, 25-35, 37, and 38 are allowed.

7. Claims 2, 8, 9, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3728

8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

9. Applicant's arguments, see pages 10-11, filed March 30, 2004, with respect to the rejection(s) of claim(s) 1-20 under 35 U.S.C. 103(a) as being unpatentable over Focke et al in view of Bray et al, and Moore in view of Focke et al, Clemens, and Allen et al, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art, presented above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

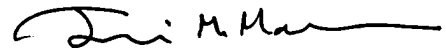
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory Pickett
Examiner
8 July 2004



JILA M. MOHANDESI
PRIMARY EXAMINER